

**TOWN OF DAVIE
CHARTER REVIEW BOARD
AUGUST 13, 2007**

1. ROLL CALL

The meeting was called to order at 6:36 p.m. Present at the meeting were Chair John Stevens, Vice Chair Judy Paul, Ray Adkins, Julie Aitkin, Tom Green, Scott McLaughlin, Douglas Notman, Howard Rechtman (departed at 7:07 p.m.), Scott Spages, and Harry Venis. Also present were Town Clerk Muniz, Town Attorney Rayson, and Secretary Lorraine Robinson recording the meeting.

2. OLD BUSINESS

Chair Stevens said he wanted to continue discussing Section 6(A) - Administrative Department, Administrative Head or Manager. He recalled from a prior meeting that the Board discussed procedures when employees were released. Mr. Muniz advised that there was a review process but it did not apply to all employees. Chair Stevens wanted to discuss the possibility of extending this process to those employees currently exempt from the review process. Mr. Muniz explained provisions for different employees and added that for employers without a contract, there was a grievance procedure an employee could use to request a hearing before the Personnel Review Board.

Chair Stevens asked how this process would affect the employees who had recently been terminated. Mr. Muniz explained that the fire chief had a contract, so this did not apply. The assistant fire chief would be able to utilize this procedure and he believed a grievance was already filed. The other manager had technically resigned so this did not apply. Mr. Muniz believed the administrative assistant's position was one of approximately four that were specifically exempt from the grievance procedure.

Mr. Notman said that apparently, there were no provisions in Florida law regarding this.

Mr. Rechtman stated they needed language in the Charter to prevent this from happening again and distributed language he had devised. Mr. Rechtman felt some checks and balances were needed regarding firing at that level of management. He proposed a supermajority of Council be required upon recommendation by the Town Administrator. Vice Chair Paul felt this was diluting the power of the Town Administrator. Chair Stevens felt an appeals process should be extended to employees who currently had none, whereby the employee could appeal to the Town Council, who could reinstate the employee by a majority vote.

Mr. Green asked if the Council was empowered to remove a power such as this from the Town Administrator. Chair Stevens said Sections 6(A)(2) and 6(A)(5) gave the Town Administrator the power to appoint and discharge all employees in the Town or its various departments.

Mr. Muniz explained the existing employee review process to Ms. Aitkin, and stated that it was public record. Ms. Akin felt if Council were permitted to overturn the Administrator's decision, this effectively changed the way the administrative department was laid out in the Charter.

Mr. Notman agreed with Chair Stevens' proposal, saying he believed this ensured due process to the employee and avoided the appearance of "politics as usual." This could prevent an employee from being dismissed for no cause and required the Administrator to provide defensible rationale for removing someone.

Mr. Muniz stated that the final decision whether to reinstate an employee in the existing appeal process was left to the Town Administrator. Chair Stevens said this sounded like an "interesting process."

Mr. Green felt their discussion this evening was "politics as usual" and had resulted from some peoples' unhappiness with the recent terminations, particularly some members of the Town Council. He

DAVIE CHARTER REVIEW BOARD MINUTES
AUGUST 13, 2007

did not like micromanagement and if Council was displeased with the Town Administrator's performance, they should fire him.

Chair Stevens disagreed that this was political in nature, noting that this was brought up at the previous meeting. He was concerned that the information provided at that meeting was not what had occurred with the current firings.

Vice Chair Paul referred to Section 6(2), which referred to the laws of the State of Florida and asked if State Statute defined the administrative form of government. Mr. Rayson responded that modern cities tend to go with either a city manager or town administrator who had the power to hire and fire. He confirmed there was no job protection in the State of Florida unless an employee was protected through discrimination laws, collective bargaining or civil service rules. Mr. Rayson informed Vice Chair Paul that the current powers of the Town Administrator were consistent with the laws of the State of Florida.

Chair Stevens felt a revision to the Charter was the only legal remedy they could provide. He felt a resolution would not be sufficient.

Mr. Spages agreed that this was a political process but did not object to it. He said he would want to know exactly which management-level employees this would pertain to and what vote would be required by Council to override before he agreed to it.

Ms. Aitken felt the current review process could be strengthened. She felt the employees with the fewest options and the least protection needed this the most.

Mr. McLaughlin felt the Town Administrator's administrative assistant position was left without protection specifically to allow the Town Administrator to appoint his own, and he felt this person should not be afforded any protection. Mr. McLaughlin felt the review process could be improved, with an employee review panel answering to the Mayor instead of back to the Town Administrator.

Mr. Spages noted that there was a learning curve for any new Town Administrator, and he felt the Mayor and Council should have some protection from an Administrator making a bad decision such as changing a police or fire chief. He remarked on the difficulty of replacing a police or fire chief, and this was what concerned him.

Chair Stevens asked if the Board would agree to explore a language to amend the Charter allowing some form of review process by Council when an unprotected employee was terminated. Mr. Rayson stated that amending the Charter in this regard would change the definition of the Town Administrator on a very significant and fundamental basis.

Motion made by Vice Chair Paul, seconded by Mr. Green, to recommend to Council that the appellate process be revised to assist non-represented employees.

Mr. Rayson said he had not identified any part of the Charter that would prohibit this proposal.

In a roll call vote, the vote was as follows: Mr. Adkins – yes; Ms. Aitkin – yes; Mr. Green – yes; Mr. McLaughlin – yes; Mr. Notman – no; Vice Chair Paul – yes; Mr. Rechtman – absent; Mr. Spages – no; Chair Stevens – yes; Mr. Venis - yes. (Motion passed 7 – 2)

Chair Stevens passed the gavel to Vice Chair Paul to create a motion regarding termination of management-level employees. Following a brief discussion, he withdrew his motion.

Mr. Spages informed the Board that the Budget Advisory Committee had endorsed the concept of an internal auditor. He added that the Budget Advisory Committee had recommended the auditor report to the Town Administrator. Mr. Venis thought they had agreed that the auditor would report to the Council directly since he/she would be auditing the Town Administrator as part of the job.

DAVIE CHARTER REVIEW BOARD MINUTES
AUGUST 13, 2007

Mr. Muniz provided an auditor survey chart. He stated that the figure for Pembroke Pines' actual costs would be much higher in future years.

Mr. Spages made a motion, seconded by Chair Stevens, to adopt the Town auditor proposal as drafted by Chair Stevens and presented at the previous meeting. Mr. Spages read the language Chair Stevens had written and submitted to Board members.

Vice Chair Paul noted that the department could be created in the Charter and the rules stated in an ordinance. The Board discussed how much of the language should be included in the Charter and how much should be used to create an ordinance.

Mr. McLaughlin was in favor of a Town auditor but felt outsourcing was more cost effective.

Mr. Spages withdrew the motion.

Mr. Rayson agreed to work on the language and return it to the Board.

Chair Stevens passed the gavel made a motion, seconded by Mr. Notman, to amend Section 6(A) - Administrative Departments - Administrative Head or Department, to add paragraph (A)(7) "Any department head terminated may seek a review of said termination by the Town Council. If the Town Council determines by majority vote to reinstate said department head, the Town Administrator shall immediately reinstate said department head and the prior termination shall be deemed void ab initio."

In a roll call vote, the vote was as follows: Mr. Adkins – no; Ms. Aitkin – no; Mr. Green – no; Mr. McLaughlin – no; Mr. Notman – yes; Vice Chair Paul – no; Mr. Rechtman – absent; Mr. Spages – no; Chair Stevens – yes; Mr. Venis - no. (Motion failed 2 – 7)

2.1. Section 7(J). The Council, Mayor and Legislation; Salary

Mr. Spages distributed a chart he had created describing salaries in towns of comparable size and language he had created regarding this section. He agreed to change the cost of living adjustment to yearly. Mr. Green felt that the strong mayor salary should be excluded from the averaging. Vice Chair Paul remembered that they had discussed using the term "average" instead of stipulating a figure.

Ms. Aitkin wondered if this could pass given the impending budget changes. She felt increasing the salaries could encourage someone to become a career Councilmember, which she did not believe the residents wanted.

Mr. Notman felt that the salary would increase in increments of \$1,000 until equaling the average of a certain group would be acceptable to the public.

Mr. Green said he was not comfortable with a significant raise, and he was also not sure Council would be in favor of one.

Mr. Spages made a motion, seconded by Chair Stevens, to approve this as written, changing the salary to be paid from specific numbers to say, "the salary to be paid shall be the average of" [the cities listed on the spreadsheet minus Plantation], and would be phased in over four years.

Ms. Aitken felt this language was too long, and perhaps the attorney should rephrase language for a referendum question. Mr. Rayson felt they should set a specific salary and not refer to averages which he felt would be confusing.

Mr. Spages withdrew his motion. There was no objection to withdrawing the second motion.

Mr. Spages made a motion, seconded by Chair Stevens "the salary to be paid shall be the average of the cities listed on this sheet, minus Plantation, and then the increments would begin on January 1, 2010 to be phased in equally over four years."

DAVIE CHARTER REVIEW BOARD MINUTES
AUGUST 13, 2007

Vice Chair Paul noted that the 75-word limit was for the ballot language. The actual Charter amendments could be as lengthy as needed.

Councilmember Starkey said that many municipalities handled this by ordinance, not by Charter. Mr. Rayson noted that the current Charter stated the salaries would be determined by ordinance, and provided limits. He suggested that the Charter could be amended to “the salary to be paid the Councilmembers and the Mayor shall be determined by ordinance and shall not exceed the average salary of the five cities in Broward County closest in population to the Town of Davie.”

Mr. Spages withdrew his motion.

Mr. Spages made a motion, seconded by Mr. Notman, to use the language “salary to be paid a Councilmember and the Mayor shall be determined by ordinance and shall be of the average of the cities as Mr. Rayson described”. In a roll call vote, the vote was as follows: Mr. Adkins – yes; Ms. Aitkin – no; Mr. Green – no; Mr. McLaughlin – no; Mr. Notman – yes; Vice Chair Paul – yes; Mr. Rechtman – absent; Mr. Spages – yes; Chair Stevens – yes; Mr. Venis - yes. (Motion passed 6 - 3)

[The Board recessed at 8:21 p.m. and reconvened at 8:26 p.m.]

Vice Chair Paul made a motion, seconded by Mr. Spages, to make a recommendation that by resolution or ordinance, Council be placed on the Florida retirement system. In a voice vote, with Mr. Rechtman being absent, all voted in favor. (Motion passed 9 – 0)

Chair Stevens passed the gavel to Vice Chair Paul and made a motion, seconded by Vice Chair Paul, to change the Town Attorney Section, 6-D to add, “Notwithstanding anything contained herein to the contrary, the Town Council may, at its sole discretion, retain a full-time Town Attorney and/or retain an independent attorney/law firm to act as Town Attorney.” Mr. Green asked if they were removing the words “for legal correctness” as they had previously discussed. Mr. Stevens agreed to delete this. Mr. Notman noted that the language of the contract prohibited the Town Attorney from representing a Council member or the Town Administrator in a personal matter and asked if this should be included in the Charter. He was advised that a provision was included in all current Town Attorney contracts.

There being no further discussion, in a roll call vote, the vote was as follows: Mr. Adkins – yes; Ms. Aitkin – yes; Mr. Green – yes; Mr. McLaughlin – yes; Mr. Notman – yes; Vice Chair Paul – yes; Mr. Rechtman – absent; Mr. Spages – yes; Chair Stevens – yes; Mr. Venis - yes. (Motion passed 9 - 0)

3. REVIEW OF CHARTER

3.1. Section 8. Finance

There were no comments and/or suggestions made.

3.2. Section 9. Town Planning and Development

There were no comments and/or suggestions made.

3.3. Section 10. Police Department

There were no comments and/or suggestions made.

3.4. Section 11. Fire Department

There were no comments and/or suggestions made.

DAVIE CHARTER REVIEW BOARD MINUTES
AUGUST 13, 2007

3.5. Section 12. Franchises

There were no comments and/or suggestions made.

4. MEETING SCHEDULE

4.1. Scheduling For Next Meeting

The Board discussed their meeting schedule and the need for additional meetings. They decided that the next meeting would take place on August 29th at 7:00 p.m.

Regarding the September 24th workshop meeting with Council, Mr. Muniz reported that all Councilmembers would not be available. The Board decided to keep their meeting on that date and schedule another meeting with Council.

5. AGENDA ITEMS FOR NEXT MEETING

The Board discussed placing the following item on the August 29th agenda:

- Section 7. The Council, Mayor and Legislation

6. COUNCILMEMBER COMMENTS AND/OR SUGGESTIONS

Mr. Green wanted to be sure they discussed the term of office in Section 7. He felt it would be more logical to have four-year terms.

7. PUBLIC COMMENTS AND/OR SUGGESTIONS

Karen Stenzel-Nowicki suggested that the Board discuss term limiting.

8. ADJOURNMENT

There being no further business to discuss and no objections, the meeting was adjourned at 8:53 p.m.

Date Approved: _____

Chair/Board Member